



Economic Impact Analysis Virginia Department of Planning and Budget

11 VAC 5-30 – State Lottery Department Instant Game Regulations October 8, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The proposed changes include repeal of numerous requirements stated in the Code of Virginia, some other requirements that are no longer applicable, and several other requirements that are addressed in non-regulatory documents published by the State Lottery Department (the department).

Estimated Economic Impact

These regulations apply to instant lottery games offered by the department. Instant games give players the chance to win a prize or entry into a prize drawing. Whether the player has won is revealed immediately after scratching off the latex covering over a portion of the ticket. Instant games are also known as "scratchers." Currently, the department offers about 60 different types of instant games with top prizes varying from \$50 to \$1 million. Last year the revenues from instant games were about \$460 million. These revenues are allocated among the winners for prizes, retailers for compensation, the department for operating expenses, and the Lottery Proceeds Fund for public education.

The proposed changes are, in large part, designed to help reorganize two of the department's current regulations into two new regulations. Currently, the department has instant game regulations (11 VAC 5-30) and online game regulations (11 VAC 5-40) in place. The instant game regulations, which are being repealed by these amendments, contain rules for both licensing of lottery retailers and the rules for gaming. Licensing rules establish eligibility criteria for retailers, application procedures, general licensing standards, license fees, rules for termination of licenses, rules for inspection of retailers, etc. And, gaming rules contain provisions on prize structures, ticket prices, chances of winning, retailer compensation, retailer transactions, payment of prizes, etc. Similarly, online regulations, which are being promulgated by a separate regulatory action, contain requirements for both licensing of lottery retailers and the requirements for gaming. Since the two current regulations contain similar provisions for different games, there is overlapping regulatory language on licensing and gaming. In order to reduce and simplify the regulatory language, the State Lottery Board (the board) proposes to reorganize the lottery regulations that contain provisions for instant and online games under two new categories: licensing (11 VAC 5-31) and gaming (11 VAC 5-41) regulations. In short, the board proposes to reorganize instant and online game regulations under licensing and gaming regulations.

In addition to the reorganization, the board proposes to update the regulations to reflect the changes in practice that occurred since 1996 when these regulations were last amended. Although this proposed change will repeal all of the instant game regulations, some of the current requirements will appear in new replacement regulations without any change and some with modifications. The new or modified requirements are discussed in proposed replacement regulations as appropriate. This report discusses only those provisions that will not appear in the proposed licensing and gaming regulations that are separate from this regulatory action because they will be completely removed by these changes.

One of the proposed amendments will repeal the requirement that the retailer license fees should recover the administrative costs because the same requirement is stated in section 58.1-4010 of the Code of Virginia and will continue to be enforced. Similarly, the requirement to pay tickets by cash, check, cashier's check, travelers check, or money order, but not by credit cards, food stamps, or food coupons will be removed from the regulations. This requirement is in section 58.1-4007.A.2 of the Code of Virginia and will continue to be enforced under the

statutory language. Finally, the language that the value of unclaimed low-tier (\$25 or less) winning tickets revert to the State Lottery Fund will be removed because this requirement is contained in section 58.1-4020.C of the Code of Virginia, but no change in practice will take place. These three changes may introduce small benefits to affected entities in terms of eliminating overlapping provisions between the statute and the regulations, but also small costs in terms of time in locating these requirements in the statute.

The proposed changes will also repeal some other provisions because they are redundant or unnecessary. These include omitting the specific requirement that the board determine the details of a prize structure such as prize amounts, types of non-cash prizes and the amount and type of jackpot prize because these details are essential components of the prize structure and the language to require the board to approve the prize structures for all games will be retained in replacement regulations. Also, with the proposed changes the language on prize amounts that can be claimed from the lottery regional offices and from the departments headquarters will be deleted. Additionally, the language allowing prizes to be claimed by a legal entity will be removed due to the amendments to the section 58.1-4019.B of the Code of Virginia which require that all prizes must be claimed by a natural person to prevent hiding winner's identity under a limited liability corporation or other types of organizations. Related to this statutory requirement the definition of the life of a claim on behalf of a group, company, corporation will be removed because only natural persons can claim prizes. Moreover, the requirement that the board approve licensing fees at its November meeting will be removed which will allow the board to discuss this issue annually at any of its meetings. Further, the requirement to print or stamp retailer's name, address, and the retail number on the back of the ticket for identification purposes will be deleted. The use of barcodes allows low-tier prizes to be paid by any of the retailers not just by the one who sold the ticket. As a result, the requirement to pay low-tier winning tickets at the retailer where the ticket is sold has not been enforced in practice and will be removed from the regulations and it is no longer necessary for the retailer's name, address, etc. to be included on the back of the ticket. Removal of any of these requirements is unlikely to create any significant economic effects.

Finally, removal of several other requirements may provide some flexibility to the department at the expense of reducing public participation in regulation development. The requirements for retailers related to return of unsold tickets, which include rules for timing,

deadlines, and methods for returning unbroken or broken ticket packs for credits is currently contained in the retailer manual and will be removed from the regulations. The language regarding ticket returns in the manual is essentially the same as in this regulation, except that no deadline is given in the manual on the return of partial packs of tickets, and retailers are now allowed 35 days instead of 21 days after the end of a game to return tickets for credit. Similarly, the requirements for validation of tickets which include ticket inspections, reporting of ticket numbers, validation codes and numbers, and obtaining authorization numbers are currently addressed in the retailer manual and will be repealed from the regulations. Ticket scanning equipment, at each retail location, accomplishes this automatically. Addressing these requirements elsewhere is expected to provide some flexibility to the department in changing procedures on returning unsold tickets, validation of tickets, and sale of tickets after the end of the game so as to respond promptly to changing business conditions, but also may reduce the public participation regarding any potential changes on these issues, as potential changes will be implemented without having to go through the usual regulatory process.

Businesses and Entities Affected

Lottery retailers selling instant games and the instant game players are subject to these regulations. According to the department, 4,971 retailers are licensed to sell instant games. Although the number of instant game players is not known, based on a survey conducted by the department in 2002, about 3.5 million adults have played an instant or online Virginia lottery game some time in their lives and approximately 2.9 million have played in the past 12-month period.

Localities Particularly Affected

The proposed regulations apply to all localities in Virginia.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

The proposed changes are not expected to significantly affect the use and value of private property.